IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7502 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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GUJ STATE ROAD TRANSPORT COPN

Versus

RAMANBHAI TALJABHAI PATEL

Appearance:

1. Special Civil Application No. 7502 of 1988

MR HARDIK C RAWAL for Petitioner No. 1

NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 19/06/2002

ORAL JUDGEMENT

#. The petitioner - Corporation has challenged the award passed by the Presiding Officer, Labour Court, Vadodara dated 18.7.1988 passed in Reference (LCV) No.362 of 1982. By the impunged award, the respondent workman is ordered

to be reinstated in service to his original post of Helper with continuity of service without any back wages.

#. At the time of admitting this petition, this Court has not granted any interim relief to the petitioner as the respondent workman was already reinstated in service by the Corporation.

#. On the relevant date, the respondent workman was having the charge of Helper and at that time, he was caught red handed as he tried to commit theft of 5 liters of diesel oil. After the departmental inquiry, he was removed from service. Thereafter, he raised industrial dispute which was referred to the Labour Court, Vadodara.

#. The Labour Court came to the conclusion that the penalty which is inflicted on the workman is on higher side and while exercising the powers under section 11-A of the Industrial Disputes Act, the Labour Court modified the said penalty and passed the order of reinstatement without back wages.

#. Since the Corporation itself has already reinstated the respondent workman by complying the award, the order of reinstatement is now not required to be interfered with. It is argued by the learned counsel for the petitioner that the Labour Court should have inflicted some penalty in view of the fact that, misconduct against the concerned workman is already proved in the departmental inquiry.

#. Considering the facts and circumstances of the case as well as considering the fact that, since 1988 the concerned workman is already reinstated in service, in my view, it will be just and proper to inflict the penalty of withholding of three increments with future effect. In fact, the Labour Court should have inflicted some penalty as withholding of back wages cannot be said to be sufficient penalty. In the facts and circumstances of the case, the petition is partly allowed. The award of the Labour Court is modified and the net result is that the order of reinstatement is confirmed. However, the respondent workman also shall be subjected to the penalty of withholding of three increments with future effect. It is clarified that, this order should not be treated as precedent. Rule is made absolute accordingly with no order as to costs.

(P.B.Majmudar,J)
(pathan)